HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V. SEETHAPATHY

WRIT APPEAL NO. 166 OF 2006

BETWEEN

A. Dhanalakshmi

.....

Appellant

And

Executive Director,
District BC Service Cooperative Society Limited,
Guntur & others

.....Respondents

Counsel for the Appellants : Shri P.V. Krishnaiah

Counsel for the Respondents : Shri T. Yathi Raju

Dated: 04.08.2006

::JUDGMENT::

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 03.12.2003 passed by the learned Single Judge whereby he dismissed the writ petition filed by the appellant for quashing proceedings dated 10.07.2002 issued by Executive Director, District BC Service Cooperative Society Ltd., Guntur (respondent No.1) rejecting the appellant's prayer for appointment on compassionate ground as Section Writer / Record Keeper.

We have heard learned counsel for the parties and perused the record. The only ground on which the learned Single Judge declined to entertain the claim of the appellant, which is discernible from the order under challenge, is that vide G.O.No. 36 dated 05.09.2001, the State Government had amended the policy of compassionate appointment for State Level Public Enterprises and made a provision for payment of ex-gratia.

On the last date of hearing i.e. 10.07.2006, the Court was compelled to adjourn the case because no one had appeared on behalf of the respondents.

Today, Shri T. Yathi Raju appeared and regretted his absence on the last date of hearing. Learned counsel then produced copies of some Government Orders, which do not form part of the record of the writ petition and this appeal and tried to support the order under challenge.

In our opinion, the documents which do not form part of the record of the case cannot be looked into for the purpose of non-suiting the appellant because she did not have the opportunity to represent her cause before the learned Single Judge in the light of the documents which have been produced today by the learned

counsel for the respondents. That apart, after perusing the copies of G.O. produced by the learned counsel for the respondents, we tried to figure out whether respondent No.3 i.e. Andhra Pradesh Backward Class Welfare Services Co-operative Society Limited, can be treated as a State Level Public Enterprise and, therefore, the provision contained in G.O.Ms.No.36, dated 05.09.2001 should be deemed to be applicable to its services, but found it extremely difficult to record a conclusive opinion on the issue of applicability of G.O.Ms.No. 36 dated 05.09.2001 to the services of respondent No.3.

In the premise aforesaid, we feel that the ends of justice would be met by setting aside the order under challenge with a direction to the learned Single Judge to decide the writ petition of the appellant afresh after giving opportunity to the respondents to place on record all the documents, which have bearing on the writ petitioner's claim with a corresponding opportunity to the latter to file supplementary affidavit and place on record additional documents.

Hence, the appeal is allowed. The order of the learned Single Judge is set aside. The writ petition of the appellant shall now be listed for fresh adjudication. In order to obviate any delay in re-adjudication of the writ petition, we direct the respondents to file supplementary counter-affidavit and relevant documents within a period of four weeks from today. The appellant is given liberty to file further affidavit within next two weeks. The case be listed for hearing before the Single Bench on 12.09.2006.

G.S. SINGHVI, CJ

G.V. SEETHAPATHY, J

04.08.2006

ksld/svs